

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 18TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE G.C.BHARUKA

WRIT PETITION NOS:3455-81/1998

BETWEEN:

1. Mrs.Lilly, w/o Mandanna,
aged about 44 years,
working as Asst. Mistress,
HMT English Primary School,
HMT Colony, Bangalore-31, and
r/a No.71, Vth Cross, L.N.Puram,
Srirampuram, Bangalore-2.
2. Smt.Girijamba, H. w/o T.Mohan
Dasni, aged about 45 years,
working as Asst. Mistress, HM T
English Primary school, HMT Colony,
Bangalore-21. and r/a No.222,
14th Main Road, Banashankari I stage,
Bangalore-50.
3. Smt.M.M.Uma Bai, w/o M.P.Subramani,
aged about 52 years, working as
Asst.Mistress, HMT English Primary
school, HMT.Colony, Bangalore-31.
and r/a No.284, Chekkasandra,
Dasarahalli, Bangalore-57.
4. Mrs.Nargis Shujutulla, w/o
K.M.Shujutulla, aged about 49 years,
working as Asst.Mistress HMT.
English Primary School, HMT colony,
Bangalore-31 and r/a No.31, Aga

Abdulla street, Richmond town,
Bangalore-25.

5. Mrs. Mary Kutty Thomas, w/o
M.C. Thomas, aged about 44 years,
working as Asst. Mistress, HMT
English Primary school, HMT colony,
Bangalore-31 and r/a No. 47/1,
Egipura II Cross, Vivekanagar
P.O. Bangalore-47.
6. Mrs. J.M. Prema, w/o Yesudas,
aged about 49 years, working as
Asst. Mistress, HMT English Primary
School, HMT Colony, Bangalore-31,
and r/a No. 13, 9th Cross, Lakshmipuram,
Ulsoor, Bangalore-8.
7. Smt. V. Saraswathi, w/o N. Raja,
aged about 44 years, working
as Asst. Mistress, HMT English
Primary School, HMT Colony,
Bangalore-31, and r/a No. EWS 1066,
6th 'B' Main Rd. Yelahanka New Town,
Bangalore-64.
8. Smt. P. Kothai, w/o late R.S. Mani,
aged about 49 years, working
as Asst. Mistress, English
Primary School, HMT Colony,
Bangalore-31, and r/a No. 15/13,
Jeevankendra Layout Cambridge
Road, Ulsoor, B'lore-8.
9. Smt. T.P. Chandra, w/o A.T. Padmanabhan,
aged about 56 years, working as
Asst. Mistress, HMT English Primary School

HMT. Colony, and r/a No.25,
Cook's Road 'A' Bangalore-1.

10. Smt.K.Suryakumari,
w/o V.Seenappa, aged about 44 years,
working as Asst. Mistesss,
HMT English Primary School,
HMT Colony, Bangalore-31, and
r/a HMT Colony, III Sector
Bangalore-31.
11. Smt.Lucy Bai, w/o R.J.Marcus,
aged about 56 years, working as
Asst.Mistress, HMT English Primary
School, HMT Colony, Bangalore-31.
r/a No.1913, II Main Road, III cross,
K.S. T.Bang lore-60.
- 12 Smt.P.Girijamba, w/o A Lakshmipathy
aged about 47 years, working as
Asst.Mistress, HMT English Primary
School HMT colony, Bangalore-31, and
r/a No.515, III Block, 10th B Main
Road, Jayanagar, Bangalore-11.
13. Smt.Annamma Thomas, w/o George,
M.K.aged about 52 years, working
as Asst.Mistress, HMT English
Primary School, HMT colony, Bangalore-31.
and r/a No.53, Narayanappa Block,
A.T.Nagar, Bangalore-32.
14. Smt.Gayathri, w/o J.Rajaram,
aged about 44 years, working as
Asst.Mistress, HMT English Primary
school, HMT colony, Bangalore-31

r/a No.365, 7th Cross,
C.T.Bed Area, Banashankari II Stage,
Bangalore-70.

15. Smt.Michael, D.A.w/o M.Jairaj,
aged about 43 years, working
as Asst.Mistress, HMT English
Primary School, r/a No.203, Out
House, 8th Main, Mattikere Extension
Bangalore-54.
16. Smt.Asmathbanu, w/o M.Nisar Ahamed,
aged about 38 years, working as
Asst.Mistress, HMT English Primary
School, HMT colony, Bangalore-31.
and r/a No.74, I Phase, IV Main,
Manjunathanagar, Bangalore-10.
17. Smt.G.K.Leelavathi, w/o H.Muralidar,
aged about 54 years, working as
Asst.Mistress, HMT English Primary
School, HMT colony, Bangalore-31,
& r/a No.578, 1st 'A' Cross, 8th
Main, III stage, IV block, Basaveshwara-
nagar, Bangalore-79.
18. Smt G.Radha Bai Serojini,
w/o Paulraj, aged about 49 years,
working as Asst.Mistress, HMT English
Primary School, HMT colony, Bangalore-31.
and r/a No.5, 3rd Cross, 4th Main,
Mattadahalli R.T.Nagar, Bangalore-32.
19. Smt.H.L.Nagarathna, w/o M.Nagaraju,
aged about 45 years, working as

Ayah, HMT English Primary School,
HMT colony, Bangalore-31, and
r/a No.16/32, 1st cross,
Sreerampuram, Bangalore-21.

20. Smt.Gowramma, w/o late Bettaiah,
aged about 56 years, working as
Ayah, HMT English Primary School,
HMT colony, Bangalore-31 and r/a
No. W-211, III Sector, HMT colony,
Bangalore-31.
21. Smt.Janikayamma,
w/o K.P.A.Kuroop,
aged about 52 years, working
as Ayah, HMT English Primary
School, HMT colony, B-31, &
r/a No.*-797, III Sector,
HMT Colony, Bangalore-31.
22. Smt.Shivarudramma, w/o Shivalingaiah,
aged about 45 years, working as
Asst.Mistress, HMT English Primary
School HMT colony, Bangalore-31
& r/a HMT EPS, HMT Post, Bangalore-31.
23. Sri Mallikarjunaiah, s/o K.Siddappa,
aged about 54 years, working as
Head Master, HMT English Primary
School, HMT Colony, Bangalore-31.
& r/a No.W-162, III Sector, HMT colony,
Bangalore-31.

24. Smt.M.Mary, w/o Anthony Das,
aged about 51 years, working as
Ayah, HMT English Primary School,
HMT Colony, Bangalore-31. and
r/a No.W-430, III Sector,
HMT colony, Bangalore-31.
 25. Smt.Julia Nesaman, w/o Joseph
Anthony, aged about 47 years,
working as Ayah HMT English
Primary School HMT colony,
Bangalore-31. and r/a No.W-586,
Sector III, HMT colony, B-31.
 26. Smt. Nagarathnamma, w/o K.Srinivasa
Murthy, aged about 45 years, working
Asst.Mistress, HMT English Primary
school, HMT colony, B.31 & r/a
No.169, Bhuvanewarinagar, T.
Basarahalli, Bangalore-57.
 27. Mrs.Jayavanthi Christopher,
w/o Sri A.Edwin Christopher,
aged about 46 years, working as
Asst.Mistress, HMT English Primary
School, HMT colony, B-31, & r/a
No.1660, VI Main Road, KST.
Bangalore-60.
- (By Sri K.S.Subbarao, Adv) ..Petitioner

AND:

1. The State of Karnataka,
rep by the Secretary, Education Dept.,
M.S. Buildg, Dr.Ambedkar Veedhi,
Bangalore-1.

2. M/s HMT Employees Education Society (A registered society), regd. under the societies Registration Act, rep by the Secretary, HMT colony, HMT Post, Bangalore-560 031.
3. Hindustan Machine Tools Ltd., rep by the Chairman, Corporate Office, HMT Bhavan, Bellary Road, Bangalore-560 024.
4. The General Technical Manager, HMT Ltd., Common Services Divn, HMT Post, Bangalore-560 031.

(By Sri G.Papi Reddy, AGA for R-1;
Sri A.S.Bopanna, for R-2 to 4;)

..Respondents

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Writ petition is filed under Article 226 of the constitution of India with a prayer to issue a writ of mandamus or any other appropriate writ order or direction, directing the respts. 2 & 3 to pay the perts. the revised/additional D.A.payable to them w.e.f. 1/7/1995 and etc.,

This petition coming on for final disposal this day the court made the following:

..order..

W.P.3455-3481/97


O R D E R

Heard the learned counsel for the petitioner and Mrs.
V. Vidya, learned H.C.G.P. for the respondents

2. The petitioners are employees of a Private Educational institution. The relief claimed by them in the present writ petition pertains to their employment. The Division Bench of this Court in W.A. No. 1833 to 1836/95 and connected matters (DD 30.05.1998) has held that even if the private educational institution has been admitted to grant-in-aid under the provisions of the Grant-in-Aid Code by the State government, still no relationship of master and servant between the government and the persons like the petitioners comes into being and therefore, the writ petitions filed by such employees are not maintainable under Article 226 of the Constitution of India, since they have effective, efficacious and alternative statutory remedies available under the Karnataka Education Act, 1983 (in short 'the Act').

3. In paragraph 12 of the judgment it has been held that.-

"As regards the locus standi of staff working in the aforesaid educational institutions to maintain the writ petitions, they have got the remedy of appeal under Section 94 of the Education Act against an order of dismissal or removal from service or reduction in rank. Under Section 130, appeal is provided against any order passed by an officer or authority under the Act. Section 131 provides for revision by Government either suo moto or on an application from any person interested. Section 132 of the Education Act provides for

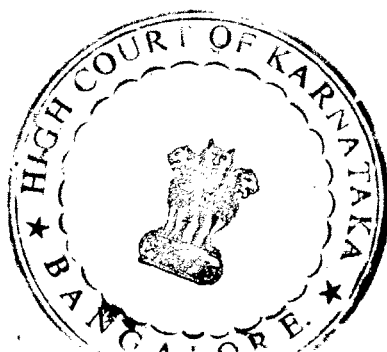


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review by the State Government either suo moto or on an application received from any person interested. The Government is also vested with the power to give direction under Section 133 of the Said Act to make enquiry or take appropriate proceeding by the Commissioner or Director or any other officer not below the rank of District Educational Officer and to submit report. Thus, the Education Act provides for appeal, revision and review in respect of any order and in the absence of any order, the Government can be moved for issuing necessary direction in exercise of its power under Section 133 and the staff can avail the said remedies. Even with regard to payment of salary, what is stated above with regard to the teaching and non-teaching staff applies the other staff also. Without exhausting such alternative remedy, they cannot be permitted to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution."

4. For the aforesaid reasons the writ petitions are dismissed on the ground of availability of efficacious and effective alternative remedy. However, all the rights and contentions of the parties on merits are kept open for being agitated before the appropriate statutory authorities. If so advised, the petitioners may avail their statutory remedy by way of filing appeal / revision / application as case may be under the Act within SIX WEEKS from today and in the event of filing of the same, the concerned authorities will dispose of such appeal / revision / application within THREE months from the date filing thereof. If any such remedy has already been availed, then the same should be disposed of within THREE months from the date of communication of this order.

jsk/-

Sd/-
JUDGE